

**REMARKS**

In the Final Office Action<sup>1</sup>, the Examiner rejected claims 1-4 and 6-9 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,726,920 to Chen et al. ("*Chen*"); rejected claims 5 and 10 under 35 U.S.C. § 103(a) as being unpatentable over *Chen* in view of JP 2000-269108 A to Tamaki et al. ("*Tamaki*"); and rejected claim 11 under 35 U.S.C. § 103(a) as being unpatentable over *Chen*.

By this Amendment, Applicants propose to amend claims 1, 6, and 11. Claims 1-11 remain pending.

Applicants respectfully traverse the rejection of claims 1-4 and 6-9 under 35 U.S.C. § 102(b) as anticipated by *Chen*. In order to properly establish that *Chen* anticipates Applicants' claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Claim 1 recites a method comprising, for example:

...  
a continuity determination step of determining whether or not defective determination is made more than once and consecutively when said processed state has been determined to be defective through said processing state determination step; and

a processing control step of controlling processing such that processing of said member continuously performed through said

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

processing step is stopped when a defective determination is determined to have been made more than once and consecutively through said continuity determination step,

. . .

(emphasis added). *Chen* does not disclose each and every element of Applicants' claimed invention.

*Chen* discloses "a system for determining quickly and with a fair degree of accuracy whether unusual numbers of failures are occurring at final water sort testing" (col. 3, lines 57-60). *Chen* discloses a database computer 150 that "can use data gathered over time from various sources (125, 125') to determine that an excessive number of failures are being detected" (col. 9, lines 8-10).

According to *Chen*, "database computer 150 can use data gathered over time from various sources (125, 125') to determine that an excessive number of failures are being detected and that there is a high probability (e.g. better than 90%) that the problem lies upstream in a given fabrication line 101a . . ." (col. 9, lines 6-11). The Examiner appears to equate the excessive number of failures in *Chen* with the claimed "defective determination [that] is made more than once," as recited in claim 1 (Office Action at pages 2-3).

Even assuming that the an excessive number of failures could correspond to claimed "defective determination [that] is made more than once," which Applicants do not concede, nothing in *Chen* teaches or suggests determining if the failures occur in a consecutive manner. *Chen* determines detected failures, but *Chen* does not determine whether the failures occur consecutively.

Claim 1 requires “a continuity determination step” that determines “whether or not defective determination is made more than once and consecutively” (emphasis added). The processing step according to claim 1 is stopped when two parameters are present. The “defective determination” must be made more than once, and the more than one “defective determination” must be consecutive.

*Chen* is silent regarding more than one “defective determination” that is consecutive. Therefore, *Chen* does not teach or suggest the claimed combination of elements including “a processing control step of controlling processing such that processing of said member continuously performed through said processing step is stopped when a defective determination is determined to have been made more than once and consecutively through said continuity determination step,” as recited in claim 1.

Accordingly, *Chen* cannot anticipate claim 1. Thus, claim 1 is allowable for at least these reasons, and claims 2-4 are also allowable at least due to their depending from claim 1. Independent claim 6, though of different scope from claim 1, recites limitations similar to those set forth above with respect to claim 1 and is thus allowable over *Chen* for at least the same reasons discussed above in regard to claim 1. Claims 7-9 are also allowable at least due to their depending from claim 6.

Regarding the rejection of claims 5 and 10, dependent from claims 1 and 6, respectively, the Examiner relies on *Tamaki* for allegedly disclosing “a management system for a semiconductor fabrication device” (Office Action at page 5). Even assuming this allegation is correct, which Applicants do not concede, *Tamaki* fails to cure the deficiencies of *Chen* discussed above. *Tamaki* discloses “a management

system capable of analyzing the cause of outbreak of failures” (Abstract). *Tamaki* does not teach or suggest the claimed combination of elements including “a processing control section for controlling processing so as to stop processing of said member continuously performed by said processing section when said continuity determination section determines that said defective determination is made more than once and consecutively,” as recited in claim 1 and similarly recited in independent claim 6, and required by dependent claims 5 and 10.

Therefore, no *prima facie* case of obviousness has been established, and claim 10 is also allowable over *Chen* and *Tamaki* for at least the same reasons as claim 6.

Regarding the rejection of claim 11, Applicants respectfully request that the Examiner reconsider and withdraw the rejection because a *prima facie* case of obviousness has not been established with respect to claim 11. As previously stated, *Chen* does not teach or suggest the claimed combination of elements including “a processing control step of controlling processing such that processing of said member continuously performed through said processing step is stopped when a defective determination is determined to have been made more than once and consecutively through said continuity determination step.” Therefore, *Chen* does not teach or suggest the claimed combination of elements, including “a processing control step of controlling processing such that processing of said member continuously performed through said processing step is stopped when a defective determination is determined to have been made more than once and consecutively through said processing section,” as recited in claim 11.

Accordingly, *Chen* fails to establish a *prima facie* case of obviousness with respect to claim 11, at least because the reference fails to teach each and every element of the claim. Claim 11 is thus allowable.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-11 in condition for allowance. This Amendment should allow for immediate action by the Examiner.

Furthermore, Applicants respectfully point out that the final action by the Examiner presented some new arguments as to the application of the art against Applicants' invention. It is respectfully submitted that the entering of the Amendment would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of the application and withdrawal of the rejections. Pending claims 1-11 are in condition for allowance, and Applicants request a favorable action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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